

REMARKS

I. Introduction

Claims 21 to 40 are pending in the present application. In view of the foregoing amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

II. Objections to the Specification and Abstract

The Specification was objected to because of certain alleged informalities. The Examiner will note that the Specification has been amended herein as suggested. No new matter has been added. Accordingly, it is respectfully submitted that this objection has been obviated, and withdrawal of this objection is therefore respectfully requested.

As regards the objection to the Abstract, the Abstract has been amended herein as suggested. No new matter has been added. Accordingly, withdrawal of this objection is respectfully requested.

III. Objection to Claims 33 to 38

In regards to the objection of claims 33 to 38 under C.F.R. § 1.75(a) for certain alleged informalities, the Examiner will note that claims 33 and 38 have been amended herein without prejudice to better clarify subject matter of the claim, and are believed to be self-explanatory. Accordingly, withdrawal of this objection is respectfully requested.

IV. Rejection of Claim 38 Under 35 U.S.C. § 112

Claim 38 was rejected under 35 U.S.C. § 112, second paragraph as allegedly indefinite. While Applicant does not necessarily agree with the merits of this rejection, to facilitate matters, claim 38 has been amended herein without prejudice to even further clarify the subject matter claimed. Accordingly, withdrawal of this rejection is respectfully requested.

V. Rejection of Claim 38 Under 35 U.S.C. § 101

Claim 38 was rejected under 35 U.S.C. § 101 as allegedly embracing two different statutory classes of inventions. While Applicant does not necessarily agree with the merits of this rejection, to facilitate matters, claim 38 has been amended herein without prejudice to even further set forth that claim 38 is directed to a method. Accordingly, withdrawal of this rejection is respectfully requested.

VI. Double Patenting Rejection of Claims 21 to 37

As regards the rejection of claims 21 to 37 under the judicially created doctrine of obviousness-type double patenting as unpatentable over claims 1 to 17 of U.S. Patent No. 6,611,774, enclosed herewith is a "Terminal Disclaimer to Obviate a Double Patenting Rejection over a 'Prior' Patent." Accordingly, it is respectfully submitted that the present rejection has been obviated, and withdrawal of this rejection is respectfully requested.

VII. Rejection of Claims 39 and 40 Under 35 U.S.C. § 103(a)

Claims 39 and 40 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of U.S. Patent No. 5,281,920 ("Wurst") and Robinson, "System noise as a signal for impedance measurements on battery strings", 27-30 September 1993, IEEE, 15th International Telecommunications Energy Conference, 1993, INTELEC '93, volume 2, pages 365-368 ("Robinson"). Applicant respectfully submits that the combination of Wurst and Robinson does not render unpatentable the present claims for the following reasons.

Claim 39 as presented relates to a method for measuring impedance of a plurality of batteries connected in series to form at least one string of batteries, each battery provided with a probe configured to measure voltage across each of the batteries, the method including injecting an alternating current in each string of batteries, measuring a voltage across each battery, and calculating the impedance of each battery by dividing the voltage by the current for each battery. Claim 39 has been amended herein without prejudice to recite that the voltage is measured across each battery by a respective probe in the battery. Support for this amendment may be found, for example, in Figure 10.

Wurst purports to relate to an on-line battery impedance measurement of battery cells within a battery system that includes at least one string of battery

cells, in which each of the strings is dividing into portions and a loading current is imposed on a portion of one of the strings at any given time so that measurements are made only within this string portion. Referring, for example, to col. 4, lines 17 to 21, Wurst describes a single voltage measurement circuit 72 that is switched by a switch 58 under the control of a controller 74 to connect, in succession, each cell within a strong portion to the voltage measurement circuit 72, which communicates with the controller 74 and transmits its measurements thereto for analysis. Thus, Wurst plainly fail to disclose, or even suggest, measuring a voltage across each battery by a respective probe in the battery as recited in amended claim 39. Robinson does not cure this deficiency. As such, it is respectfully submitted that the combination of Wurst and Robinson fails to disclose, or even suggest, all of the features recited in amended claim 39. Accordingly, it is respectfully submitted that the combination of Wurst and Robinson does not render unpatentable amended claim 39.

As for amended claim 40, which includes features essentially analogous to features included claim 39, it is respectfully submitted that the combination of Wurst and Robinson does not render unpatentable claim 40 for at least the same reasons given above in support of the patentability of claim 39.

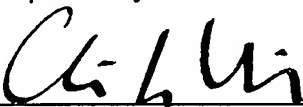
In view of the foregoing, withdrawal of this rejection is respectfully requested.

VIII. Conclusion

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

Date: October 31, 2000 By:



Clifford A. Ulrich
Reg. No. 42,194

KENYON & KENYON
One Broadway
New York, New York 10004
(212) 425-5288
CUSTOMER NO. 26646